IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Income Tax Appeal No. 38 of 2002

1. The Commissioner of Income Tax, Dehradun.
2. Dy. Commissioner of Income Tax,
Special Range-1, Dehradun. … Appellants

Versus

M/s Oil & Natural Gas Corporation
as representative of Mr. Gazimov Guelani
M/s V.V.O. Machinoimport USSR,
Tel Bhawan, Dehradun. ... Respondent

Mr. S.K. Posti, Advocate for the appellants.
Mr. J.P. Joshi, Advocate for the respondent.

Coram: Hon. Cyriac Joseph, C.J.
Hon. J.C.S. Rawat, J.

JUDGMENT

CYRIAC JOSEPH, C.J. (Oral)

1. This appeal is against the order dated 18th April 2001 passed by the Income Tax Appellate Tribunal, Delhi Bench "A", in ITA. No. 6162(Del) of 1994. The dispute relates to the Assessment Year 1992-93. The assessee is Mr. Gazimov Guelani, represented by ONGC., Tel Bhawan, Dehradun.

2. The substantial question of law raised in the appeal is as follows:

> "Whether on the facts and in the circumstances of the case the learned Income Tax Appellate Tribunal was justified in directing to apply Single Stage Grossing UP of the tax perquisites paid by ONGC on behalf of the assessee instead of Multi Stage Grossing UP, applied by the Assessing Officer U/S 195 A of the Income Tax Act, 1961 ? "

3. An identical question of law was considered by a Division Bench of this Court in the judgment in Commissioner of Income Tax, Meerut and another Vs. ONGC as agent of Cooper Engineering Services International Incorporated and connected cases, which was reported in

(2003) 264 ITR 340 . In the above judgment, this Court held that the Tribunal was right in holding that Multiple Stage Grossing Up of income was not applicable to notional income under section 44BB read with section 195A of the Income Tax Act, 1961.

4. Following the above mentioned judgment of a Division Bench of this Court, we dismiss this appeal.

(J.C.S. Rawat, J.)
06.09.2005

(Cyriac Joseph, C.J.)
06.09.2005

A